

SENATE BILL 2400

By Johnson

AN ACT to amend Tennessee Code Annotated, Title 24;
Title 36; Title 37; Title 39 and Title 40, relative to
criminal law.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 24-7-120, is amended by deleting the language "thirteen (13)" wherever it appears and substituting the language "eighteen (18)".

SECTION 2. Tennessee Code Annotated, Section 36-3-605, is amended by deleting subsection (b) and substituting:

(b) Within fifteen (15) days of service of such order on the respondent under this part, a hearing must be held, at which time the court shall either dissolve any ex parte order that has been issued, or shall, if the petitioner has proved the allegation of domestic abuse, stalking, sexual exploitation of a minor, sexual assault, or a human trafficking offense by a preponderance of the evidence, extend the order of protection for a definite period of time, not to exceed one (1) year, unless a further hearing on the continuation of such order is requested by the respondent or the petitioner; in which case, on proper showing of cause, such order may be continued for a further definite period of one (1) year, after which time a further hearing must be held for any subsequent one-year period. Any ex parte order of protection must be in effect until the time of the hearing, and, if the hearing is held within fifteen (15) days of service of such order, then the ex parte order must continue in effect until the entry of any subsequent order of protection issued pursuant to § 36-3-609. If no ex parte order of protection has been issued as of the time of the hearing, and the petitioner has proven the allegation of domestic abuse, stalking, sexual exploitation of a minor, sexual assault, or a human

trafficking offense by a preponderance of the evidence, then the court may, at that time, issue an order of protection for a definite period of time, not to exceed one (1) year.

SECTION 3. Tennessee Code Annotated, Section 37-1-134(b), is amended by adding the following as a new subdivision:

() Whether the child has a history of trauma or abuse, including, but not limited to, the child being a victim of a human trafficking offense as defined in § 39-13-314;

SECTION 4. Tennessee Code Annotated, Section 37-1-607, is amended by deleting subdivision (a)(2) and substituting:

(2) Each team must be composed of one (1) person from the department, one (1) representative from the office of the district attorney general, one (1) juvenile court officer or investigator from a court of competent jurisdiction, and one (1) properly trained law enforcement officer with countywide jurisdiction from the county where the child resides or where the alleged offense occurred. The team may also include a representative from one (1) of the mental health disciplines, a representative trained in child abuse from one (1) of the medical disciplines, and, for cases involving an allegation that a child is a victim of a human trafficking offense, a representative from one (1) non-governmental agency specialized in combatting the commercial sexual exploitation of minors. It is in the best interest of the child that, whenever possible, an initial investigation shall not be commenced unless all four (4) required disciplines are represented. An initial investigation may, however, be commenced if at least two (2) of the required team members are present at the initial investigation. In those geographical areas in which a child advocacy center meets the requirements of § 9-4-213(a) or (b), child advocacy center directors, or their designees, must be members of the teams under this part and part 4 of this chapter for the purposes of provision of services and functions established by § 9-4-213 or delegated pursuant to that section. In such event,

child advocacy center directors, or their designees, may access and generate all necessary information, which shall retain its confidential status, consistent with § 37-1-612.

SECTION 5. Tennessee Code Annotated, Section 37-1-607(b)(2)(A), is amended by adding the following as a new subdivision:

() Determine the specialized, non-punitive services necessary to support the child in cases where there is an allegation that the child may be a victim of a human trafficking offense;

SECTION 6. Tennessee Code Annotated, Title 37, Chapter 5, Part 4, is amended by adding the following as a new section:

(a) The department shall develop a policy to assist foreign national children suspected of being a victim of human trafficking.

(b) The department must develop and maintain assessment tools to screen system-involved children at risk of human trafficking for experiences of commercial sexual exploitation. The assessment tools must also be distributed to juvenile justice agencies for use in screening children identified to be at risk for being a victim of human trafficking.

SECTION 7. Tennessee Code Annotated, Section 39-11-502(c), is amended by deleting the subsection and substituting:

(c) It is not a defense to prosecution for a violation of § 39-13-309, § 39-13-514, or § 39-13-529(a), (b)(1), or (b)(2) that the person charged was ignorant or mistaken as to the age of a minor.

SECTION 8. Tennessee Code Annotated, Section 39-13-309(d), is amended by adding the following as a new subdivision:

() The person charged was ignorant or mistaken as to the age of a minor.

SECTION 9. Tennessee Code Annotated, Section 39-13-309, is amended by adding the following as new subsections:

() Notwithstanding this section to the contrary, if it is determined after a reasonable detention for investigative purposes that a victim of trafficking for a commercial sex act under this section is under eighteen (18) years of age, then that person is immune from prosecution for prostitution as a juvenile or adult. A law enforcement officer who takes a person under eighteen (18) years of age into custody as a suspected victim under this section shall, upon determination that the person is a minor, provide the minor with the telephone number for the Tennessee human trafficking resource center hotline, notify the department of children's services, and release the minor to the custody of a parent or legal guardian or transport the minor to a shelter facility designated by the juvenile court judge to facilitate the release of the minor to the custody of a parent or guardian.

() It is a defense to prosecution under this section, including as an accomplice or co-conspirator, that a minor charged with a violation of this section was so charged for conduct that occurred because the minor is also a victim of an act committed in violation of this section or § 39-13-307, or because the minor is also a victim as defined by the federal Trafficking Victims Protection Act (22 U.S.C. § 7102).

SECTION 10. Tennessee Code Annotated, Section 40-32-101, is amended by deleting subdivision (a)(1)(E) and substituting:

(E)

(i) Except as provided in subdivision (a)(1)(E)(ii) and in subsection (j), a person is not entitled to the expunction of such person's records if:

(a) The person is charged with an offense, is not convicted of the charged offense, but is convicted of an offense relating to the same

criminal conduct or episode as the charged offense, including a lesser included offense; provided, however, any moving or nonmoving traffic offense shall not be considered an offense as used in this subdivision (a)(1)(E)(i); or

(b) The person is charged with multiple offenses or multiple counts in a single indictment and is convicted of:

(1) One (1) or more of the charged offenses or counts in the indictment; or

(2) An offense relating to the same criminal conduct or episode as one (1) of the offenses charged in the indictment, including a lesser included offense.

(ii) Subdivision (a)(1)(E)(i) does not apply if the person is a victim of a human trafficking offense, the conviction is a result of victimization, and the person is applying for expunction relief under § 40-32-105.

SECTION 11. Tennessee Code Annotated, Section 40-32-105, is amended by deleting subdivision (i)(4) and substituting:

(4) As used in this section, expunction means, in contemplation of law, the conviction for the expunged offenses never occurred and the person shall not suffer any adverse effects or direct disabilities, including the payment of fines and fees owed to the court, by virtue of the criminal offenses that were expunged.

SECTION 12. Tennessee Code Annotated, Section 40-35-113, is amended by deleting subdivision (12) and substituting:

(12) The defendant acted under duress or under the domination of another person, even though the duress or the domination of another person is not sufficient to constitute a defense to the crime, including a misdemeanor or non-violent felony

committed while the defendant was a victim of human trafficking or a commercial sex act; and

SECTION 13. Tennessee Code Annotated, Section 40-38-119(b)(2), is amended by deleting the subdivision and substituting:

(2) Have a support person of the victim's choosing present during any forensic medical examination and during any interview with law enforcement, the prosecuting attorney, the defendant, or the defendant's attorney, and to have a support person present in the courtroom when the victim is testifying against the defendant;

SECTION 14. This act takes effect July 1, 2022, the public welfare requiring it.